

Sales and Use Tax Information for Manufacturers

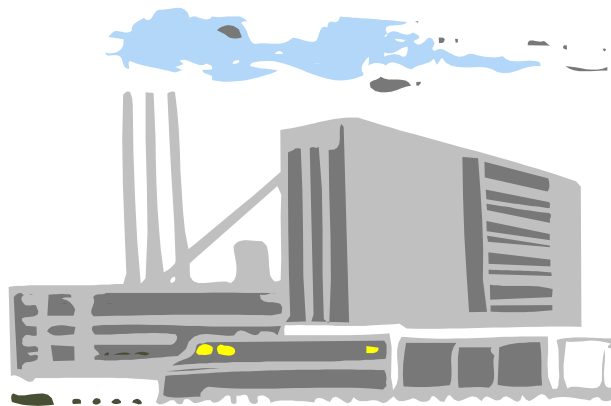


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I. INTRODUCTION

This publication provides information regarding Wisconsin's general sales and use tax as it relates to manufacturers. It describes the nature of "manufacturing," what types of purchases or sales by manufacturers are taxable or exempt, and what a manufacturer must do to comply with the law.

The information provided generally relates to the state's 5% sales and use tax. However, in counties which have adopted the 0.5% county sales and use tax and counties where the 0.1% stadium tax is imposed, the county tax and stadium tax may also apply to any transaction which is subject to the state tax. Additional information about the county and stadium taxes is in Publication 201, which is available from any department office.

In making purchases that are exempt from the tax, a manufacturer should furnish each seller with an exemption certificate. The seller's and purchaser's responsibilities in the use of exemption certificates are described in this publication, and the "Wisconsin Sales and Use Tax Exemption Certificate" (Form S-211) is reproduced on pages 25 through 28 of this publication.

If, after reading this publication, you have questions about the sales and use tax, any Department of Revenue office may be contacted for free assistance. (See Part XIII for a listing of department offices.)

CAUTION

The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of June 1, 2000. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication. Also note that lists of taxable or exempt items in this publication are not all-inclusive. They merely set forth common examples.

II. WHO IS A MANUFACTURER?

Not all persons who consider themselves to be manufacturers are engaged in manufacturing under the law. Hence, both sellers and purchasers should use exemption certificates with caution being sure that the purchaser qualifies as a manufacturer.

A. Statutory Definition

Section 77.54(6m), Wis. Stats., provides:

"For purposes of sec. 77.54(6)(a) 'manufacturing' is the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing. 'Manufacturing' includes but is not limited to:

- (a) Crushing, washing, grading and blending sand, rock, gravel and other minerals.
- (b) Ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including but not limited to the preparation of ore for smelting."

Since the Wisconsin legislature has provided a definition of manufacturing for the purposes of Wisconsin's general sales and use tax law, we must look to that definition and not to various dictionary or encyclopedia definitions. Determinations as to what is and what is not manufacturing under other statutes or governmental rules or regulations are relevant only to the extent that the definitions of manufacturing under these statutes, rules, and regulations are consistent with the definition quoted above.

The definition of manufacturing in sec. 77.54(6m), Wis. Stats., is a very limiting definition. It does not include processing or fabricating which does not produce a new article with a different form, use, and name.

B. Wisconsin's Definition Requires That a New Article Be Produced

Not every production of tangible personal property is manufacturing. The law requires that what is produced be "a new article with a different form, use and name from existing materials" before the production of the property is deemed manufacturing. Thus, the application of labor to an article, either by hand or machine, is not manufacturing unless the finished article is clearly and distinctively new and different in form, in use, and in name.

C. Wisconsin's Definition As Interpreted By the Wisconsin Supreme Court

In the *Bailey-Bohrman* decision (93 Wis. 2d, 608), the Wisconsin Supreme Court identified the following "six objective elements" in sec. 77.54 (6m), Wis. Stats., which must be met for the exemption of sec. 77.54(6)(a), Wis. Stats., to apply:

1. Production by machinery,
2. of a new article,
3. with a different form,
4. with a different use,
5. with a different name, and
6. by a process popularly regarded as manufacturing.

The sixth element above was clarified in *H. Samuels Co., Inc. v. Department of Revenue*, 70 Wis. 2d 1076, 1085-86 (1975). The Court stated that a process popularly regarded as manufacturing should only be applied with reference to the opinions of persons conversant with the subject matter involved rather than according to the view of the operation taken by the "man on the street."

D. By Way of Illustration and Not of Limitation, the Following Are Ordinarily Manufacturers:

Asphalt plants, bakeries, battery makers, breweries (including micro-breweries in brew-pubs) and soda water bottling plants, candy factories, cement and concrete plants, cheese cutting and repackaging plants, chemical processing plants, persons engaged in chemically treating wood, concrete block and tile producers, creameries and instant milk producers, dairies and cheese plants, dental labs, ductwork fabrication shops, electric generating companies, fertilizer plants, flour and feed mills including mobile units, food processing plants (canning and freezing), foundries and glass making plants, grain dryers, hide curers, persons engaged in duplicating keys, limestone calcination plants, machine and equipment producers, malting plants, meat packing and processing plants, mobile home and modular home factories (when not engaged in real property

construction activities), motor vehicle and aircraft factories, oil refineries, paint factories, paper making plants, persons engaged in snowmaking for a ski hill, photofinishers, printers, sawmills, scrap processors, shoe and clothing factories, smelting and steel mills, tanneries, tool and die making plants, tire retreaders, persons engaged in crushing, washing, grading and blending sand, rock, gravel and other minerals, persons engaged in ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and the beneficiation, including but not limited to the preparation of ore for smelting, persons engaged in editing and duplicating video tapes, and persons engaged in heat treating and metal plating semi-finished products furnished by manufacturers.

E. By Way of Illustration and Not of Limitation, the Following Are Deemed Nonmanufacturers:

Contractors (when engaged in real property construction activities and installing or repairing tangible personal property), farmers, fish hatcheries, freezer and locker plants, highway truckers, hotels, junk and scrap dealers, laundries and dry cleaners, repair persons, restaurants, television and radio stations, and persons engaged in: corn shelling, experimental and development activities, logging and forestry operations, mining, paper recycling, photography, popping corn, the business of raising and breeding animals, real property construction activities, custom slaughtering of animals and vending machine operations.

F. Fabrication

Fabrication which does not produce a new article with a different form, use, and name as described in Part C is not "manufacturing" since the end result of such fabrication is merely the modification of a previously manufactured article. Fabricators engaged in such activities are not entitled to the exemptions provided for manufacturers. Also, the gross receipts from the sale at retail of any fabricated article as well as the gross receipts from the fabrication of an article of tangible personal property for another are subject to the tax unless a specific exemption applies. See sec. Tax 11.38, Wis. Adm. Code, entitled "Fabricating and processing," for more information on this subject.

III. EXEMPTION FOR MANUFACTURING MACHINES AND SPECIFIC PROCESSING EQUIPMENT

A. Statutory Language

Section 77.54(6)(a), Wis. Stats., exempts the gross receipts from the sale of and the storage, use, or other consumption of:

“Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment.”

Section 77.54(6r), Wis. Stats., states that the above exemption is to be strictly construed.

Section 77.54(5)(d), Wis. Stats., exempts the gross receipts from the sale of and the storage, use or other consumption of:

“Mobile units used for mixing and processing and the motor vehicle or trailer on which the unit is mounted, including accessories, attachments, parts, supplies and materials for those vehicles, trailers and units.”

B. Scope of Manufacturing

The exemption requires that the machines and equipment be used “*by a manufacturer in manufacturing.*” Thus, even when being used by a manufacturer, machines and equipment must be used in manufacturing in order to qualify for the exemption.

The scope of manufacturing is defined in sec. Tax 11.39, Wis. Adm. Code, as follows:

“Manufacturing includes the assembly of finished units of tangible personal property and packaging when it is a part of an operation performed by the producer of the product or by another on the producer’s behalf and the package or container becomes a part of the tangible personal property as such unit is customarily offered for sale by the producer. It includes the conveyance of raw materials and supplies from

plant inventory to the work point of the same plant, conveyance of work in progress directly from one manufacturing operation to another in the same plant and conveyance of finished products to the point of first storage on the plant premises. It includes the testing or inspection of manufactured goods throughout the scope of manufacturing.”

“Manufacturing does not include storage, delivery to or from the plant, repairing or maintaining facilities, or research and development.”

For examples of the application of the *scope* of manufacturing concept to specific situations, see APPENDIX A.

C. Size of Operation

The size of an operation does not determine whether or not a process qualifies as manufacturing, as long as the operation meets the six objective elements described in Part II.C.

Examples:

1. A photofinishing operation managed by one employee at a time accepts unexposed film for processing. The employee operates a machine used to develop the film into negatives and a machine used to create prints from the negatives.
2. A key making machine used to duplicate a key may qualify for the manufacturing exemption when used in the following manner: A purchaser brings in a key to be duplicated. The operator of the key making machine chooses an uncut “blank” that a duplicate can be made from. Using the purchaser’s key as a model, the machine cuts the blank to copy the original. The new key can be used in the same manner as the purchaser’s original key.

As long as the machines are used directly and exclusively in this manner, they qualify for the manufacturing exemption even though the operation only involves one person at a time and may also be part of a retail operation.

D. Directly Used Requirement

To qualify for the exemption, machines and processing equipment must be used directly in the manufacture of tangible personal property. Any machine or specific processing equipment not used directly within the scope of manufacturing is not exempt, even though such item may be indirectly related to the manufacturing process. For example, machines or equipment used for sweeping a plant, disposing of scrap or waste, plant heating or air conditioning, or for communication, lighting, fire prevention, research, development, storage, delivery to or from a plant, or repair or maintenance of machines or facilities are taxable. Electric substations generally are not directly used in manufacturing.

For examples of the *directly used* requirement, see APPENDIX B.

E. Exclusively Used Requirement

To qualify for the exemption, machines and processing equipment must be used exclusively in the manufacture of tangible personal property. “Exclusively” means that the machines and specific processing equipment are used solely by a manufacturer in manufacturing tangible personal property to the exclusion of all other uses, except that the exemption is not invalidated by an infrequent and sporadic use other than in manufacturing tangible personal property.

For examples of the *exclusively used* requirement, see APPENDIX C.

F. Only Machines, Processing Equipment, Safety Attachments and Repair Parts Qualify for Exemption

Some items used in a manufacturing plant are not exempt because they are not the type of item exempt under the statute. Supplies such as sweeping compounds and disposable rags, gloves, shoe covers, and coveralls are not machines or processing equipment. However, such items may be exempt if consumed or destroyed in manufacturing tangible personal property destined for sale. See Part IV.C.

Small tools including hand tools, do qualify as processing equipment, but they are exempt only if

they are used both exclusively and directly in the manufacturing process. Such tools if used either partially or totally for machine repair or general maintenance are not within the exemption.

The parts for and repair service on exempt machines and processing equipment are also exempt. Examples of such parts are auger bits, conveyor belts, dies and molds, emery wheels, grinding wheels, jigs, machine drills, machine tool holders, milling cutters, reamers, and saw blades.

G. Real Estate Improvements Do Not Qualify for the Exemption

Real estate improvements, such as concrete foundations and settings for machines, as well as electric conduit and piping which service a building, are neither machines nor processing equipment and are not within the exemption. The consumer of the materials used in making such improvements is the contractor who purchases them and is responsible for the construction or installation of the same. Since the contractor is not a manufacturer, it cannot claim the machinery and equipment exemption when purchasing these materials.

IV. EXEMPTION FOR INGREDIENTS OR COMPONENT PARTS AND CONSUMABLE ITEMS

A. Statutory Language

Section 77.54(2), Wis. Stats., provides an exemption for:

“The gross receipts from sales of and the storage, use or other consumption of tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale, but this exemption shall not include fuel or electricity.”

Section 77.54(2m), Wis. Stats., provides an exemption for:

“The gross receipts from the sales of and the storage, use or other consumption of tangible

personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient. In this subsection, ‘shopper guides’, ‘newspapers’ and ‘periodicals’ have the meanings under sub. (15). The exemption under this subdivision does not apply to advertising supplements that are not newspapers.”

Section 77.54(43), Wis. Stats., provides an exemption for:

“The gross receipts from the sale of and the storage, use or other consumption of raw materials used for the processing, fabricating or manufacturing of, or the attaching to or incorporating into, printed materials that are transported and used solely outside this state.”

B. Ingredients or Component Parts

Purchases of tangible personal property becoming an ingredient or component part of an article of tangible personal property in any form destined for sale are exempt under sec. 77.54(2), Wis. Stats. For example, purchases of gases such as neon or argon used as a filler in the production of light bulbs are exempt. Welding rods which become a component part of the product manufactured may also be purchased without tax.

C. Items Consumed, Destroyed, or Losing Their Identity

Purchases of tangible personal property which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale are exempt under sec. 77.54(2), Wis. Stats. The scope of this exemption is described in sec. Tax 11.41, Wis. Adm. Code.

The following items are deemed within the exemption if they are used “in the manufacture of tangible property for sale”: acids, bleaching agents, catalysts, chemicals, cleaning compounds and solvents

for maintaining manufacturing machinery, cutting and lubricating oils, filtering clay, fluxing material, foundry sand, greases, lapping and grinding compounds, purification agents, sandpaper, shielding gases, and wood used to smoke products.

Food processors who must maintain high sanitation standards in the manufacturing plant as required under established governmental standards may purchase chemicals and cleaning agents without tax to clean walls, ceilings, floors, and drains of the rooms in which manufacturing takes place, pursuant to the Wisconsin Tax Appeals Commission decision in *Oscar Mayer & Co., Inc. vs. Wisconsin Department of Revenue*, dated May 18, 1984 (CCH 202-388).

This exemption does not apply to purchases of clean towel service or to employee wearing apparel worn for the comfort or welfare of the employee. However, clean towel service and wearing apparel consumed during the manufacturing process which prevents contamination of the product produced and sold is exempt.

For examples of tangible personal property that becomes an *ingredient or component part or is consumed, destroyed, or loses its identity*, see APPENDIX D.

D. “Destined for Sale” Restriction

Except for the exemption in sec. 77.54(2m), Wis. Stats., which applies to the production of shoppers guides, newspapers, and periodicals, and except for the exemption in sec. 77.54(43), Wis. Stats., which applies to raw materials of printed materials transported and used solely outside Wisconsin, there is no exemption for property which becomes an ingredient or component part of an article of tangible personal property unless the item produced is destined for sale. An item is not destined for sale if that item is:

- (a) Given away by the producer of the item.
- (b) Used by the manufacturer to repair the manufacturer’s own equipment.
- (c) Used to print advertising and the printer does not supply the paper.

- (d) Used by the manufacturer in making a real property improvement.

Tangible personal property or services which become an ingredient or component of shoppers guides, newspapers, or periodicals or that are consumed or lose their identity in the manufacture of one of those publications are exempt under sec. 77.54(2m), Wis. Stats. This provides an exemption for the paper purchased in the following situations:

1. The publisher of the exempt periodical provides the paper to the printer.
2. The publisher does its own printing of the exempt periodical.

Periodicals must be regularly issued at average intervals not exceeding 3 months and are defined in sec. Tax 11.19(3)(c), Wis. Adm. Code. The exemption in sec. 77.54(2m), Wis. Stats., does not apply to advertising supplements which are not newspapers. Therefore, a seller's purchase of advertising supplements are taxable, whether the seller has them distributed with a newspaper, shoppers guide, or other periodical.

The exemption under sec. 77.54(43), Wis. Stats., applies to raw materials becoming a component of or used for processing, fabricating or manufacturing printed materials that are transported and used solely outside Wisconsin, even if the printed materials are not sold.

E. Exception for Fuel or Electricity

Section 77.54(2), Wis. Stats., specifically provides that fuel or electricity are not included within the exemption. Manufacturers, however, are permitted to offset franchise or income taxes payable with sales tax paid on certain purchases of fuel and electricity, as described in Part VI.B. For a definition of "fuel" see Part VI.A.2.

The statutory language in sec. 77.54(2m), Wis. Stats., *does not exclude fuel and electricity from exemption*. Therefore, fuel and electricity consumed in the manufacture of shoppers guides, newspapers, and periodicals are exempt. The exemption applies even if the shoppers guides, newspapers or periodicals

are given away, since there is no requirement in sec. 77.54(2m), Wis. Stats., for them to be "destined for sale."

V. EXEMPTION FOR CONTAINERS AND OTHER PACKAGING AND SHIPPING MATERIALS

A. Statutory Language

Section 77.54(6)(b), Wis. Stats., exempts from the tax the gross receipts from the sale of and the storage, use, or other consumption of:

"Containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping tangible personal property, if such items are used by the purchaser to transfer merchandise to customers and meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials for use in packing, packaging or shipping meat or meat products regardless of whether such items are used to transfer merchandise to customers."

B. Use Determines Exemption

To qualify for the exemption, the listed items must be "used by the purchaser to *transfer merchandise to customers*." It is immaterial if the containers or other packaging or shipping materials are returnable or nonreturnable. Section Tax 11.15, Wis. Adm. Code, provides more information on this subject.

C. Type of Item Which May Qualify for the Exemption

In addition to the items listed in the statute, "containers" include barrels, bottles, cartons, chemical carboys, and kegs. Packaging and shipping materials include property used inside a package in order to shape, form, preserve, stabilize, or protect the contents, such as, but not limited to, batting, cardboard fillers, cotton, dry ice, excelsior, ice, separators, and shredded paper. Packaging and shipping materials also include such items as crates and crating material, gummed tape, mailing tubes, pallets, rope, rubber bands, skids, twine, and wrapping paper.

D. Examples of Items and Uses Which Qualify for the Exemption

1. Cans in which canned goods, paints, and other commodities are contained; medicine bottles; boxes in which jewelry, candy, suits, dresses, and hats are delivered to purchasers, ice cream cartons.
2. Bottles, bottle caps, and cases used by breweries, dairies, wineries, or soda water beverage producers to transfer the product to purchasers.
3. Barrels, half-barrels, kegs, and similar containers used by breweries to transfer draft beer to sellers.
4. Shipping labels with directions printed thereon, such as "Fragile" or "Handle with Care."
5. Paper food dividers used to separate sections of containers which are used to transfer merchandise to purchasers.
6. Paper bags purchased by bakeries or other sellers and used by purchasers in carrying out their purchases.
7. Feed bags purchased by feed mills that use the bags to transfer merchandise sold to purchasers.
8. Ice used to preserve the contents of containers during shipment to purchasers.
9. Tanks used by a chemical manufacturer, to transfer chemicals to purchasers, which are returned each time the contents are exhausted.

E. Examples of Items and Uses Which Do Not Qualify for the Exemption

1. Wrapping equipment, such as paper holders, tape dispensers, staplers, and string holders.
2. Counter display cards which are used for advertising and display purposes.
3. Computer produced gummed label mailing lists used to address envelopes. (However, labels for envelopes used to transfer tangible personal property to purchasers are exempt.)

4. Containers or other packaging and shipping materials used merely for storage or to transfer merchandise owned by the same person from one location to another. For example, string, strap and other wrapping and packaging materials used to deliver bundles of newspapers to delivery employees, who remove and discard the materials before delivering the newspapers to home subscribers are not exempt.
5. Price tags and advertising matter used in connection with the sale of tangible personal property.
6. Shopping carts or baskets and similar equipment.
7. Lumber or other material used for bracing, blocking, skidding or shoring items while in transit, and cardboard and paper used to line boxcars, that are not transferred to purchasers.
8. Tanks on trucks used to deliver merchandise to purchasers.
9. Bags, boxes, hangers, and other containers transferred to purchasers by laundries, dry cleaners, and other persons providing services rather than merchandise.

F. Tax on Separate Charge for Packaging and Shipping Materials

If a separate charge is made by a seller or lessor of machinery, equipment, or other merchandise to a purchaser for packaging materials used in connection with the shipment of machinery or equipment, the charge for such packaging materials is subject to sales tax if the property shipped is subject to tax. If the property is exempt from tax, the separate charge for the packaging material is also exempt.

G. Treatment of Deposits on Returnable Containers

Deposits received on returnable containers and packaging materials in connection with a taxable sale should be reported in the same way on the sales tax return as they are recorded on the seller's books of account. For example, returnable container deposits received upon the sale of tangible personal property and refunds of such deposits should be ex-

cluded from the computation of taxable gross receipts, if they are excluded from gross receipts on the books of account. If the books of account include container deposits in gross receipts, and refunds of such deposits are deducted from gross receipts, the seller should use this method of reporting taxable gross receipts on the sales tax return. When the deposit is refunded, the applicable tax should also be returned to the purchaser.

VI. FUEL AND ELECTRICITY

A. The Exemptions

1. Statutory Language

Section 77.54(6)(c), Wis. Stats., provides an exemption for:

“Fuel converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities.”

Section 77.54(30)(a)4, Wis. Stats., provides an exemption for:

“Any residue that is used as a fuel in a business activity and that results from the harvesting of timber or the production of wood products, including slash, sawdust shavings, edgings, slabs, leaves, wood chips, bark and wood pellets manufactured primarily from wood or primarily from wood residue.”

Section 77.54(2), Wis. Stats., provides an exemption for:

“The gross receipts from sales of and the storage, use or other consumption of tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale, *but this exemption shall not include fuel or electricity.*” (Emphasis added)

Section 77.54(2m), Wis. Stats., provides an exemption for:

“The gross receipts from the sales of and the storage, use or other consumption of tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient. In this subsection, ‘shoppersguides’, ‘newspapers’ and ‘periodicals’ have the meanings under sub. (15). The exemption under this subdivision does not apply to advertising supplements that are not newspapers.” (Note: This exemption *does* include fuel and electricity.)

2. Definitions of Fuel and Utility

“Fuel” is a material used to produce heat or power by burning, or something that feeds a fire. Gases such as acetylene or oxygen are, in most instances, used as a fuel. When oxygen is used to enrich the fuel mixture in an industrial furnace, or when oxygen and acetylene are used in a welding process, they are used as fuels.

Coke used by a foundry is considered a fuel except for that portion (generally between 5% and 15%) of the coke which actually becomes an ingredient or component part of the grey-iron produced. An engineering analysis should be used to determine the correct percentage.

A “utility” is a company authorized by law to perform a service for the public in a particular area, and is subject to Public Service Commission regulation. A corporation which produces electricity or steam primarily for its own consumption is not a utility.

B. The Franchise or Income Tax Credit

1. A Franchise or Income Tax Credit Is Available for Sales and Use Taxes Paid on Fuel and Electricity Consumed in Manufacturing

A Wisconsin franchise or income tax may be reduced by the Wisconsin sales and use taxes paid on fuel and electricity *consumed in manufacturing* tangible personal property in this state. Any unused credit may be carried forward to be offset against the franchise or income tax in the next succeeding 15 years. However, each year's credit must first be applied against the franchise or income tax liability of that year, before an unused credit from a prior year may be applied (secs. 71.07(3s) and 71.28(3), Wis. Stats.). Section Tax 2.11, Wis. Adm. Code, provides more information on this subject.

2. Must Be Consumed By a Manufacturer

This credit is allowed to individuals (including partners and tax-option (S) corporation shareholders), estates, trusts, and corporations engaged in manufacturing in Wisconsin. For an explanation of what constitutes manufacturing, see Part II.

3. Must Be Consumed in Manufacturing

The sales or use tax credit applies only to fuel or electricity which is "consumed in manufacturing." Fuel or electricity used to operate machines and equipment used directly in the step-by-step manufacturing process is consumed in manufacturing.

Fuel or electricity used outside the scope of manufacturing, such as that used in providing plant heating, cooling, air conditioning, communications, lighting, safety, and fire prevention, is *not* consumed in manufacturing and there is no credit for sales and use taxes paid thereon. Other activities which are outside the scope of manufacturing are activities associated with administration, advertising, distribution, receiving, research and product development, sales, shipping, storage, and warehousing.

When separate gas or electric meters are not used to determine what portion of the fuel or electricity is actually consumed in manufacturing, a reasonable allocation will be accepted.

4. When Sales and Use Taxes Are Paid

When computing the sales and use tax credit, the tax "paid" is to be construed in the light of the method used in computing taxable income. Thus, in computing the credit, a corporation which keeps its books and records on the accrual method may consider the sales and use taxes accrued during the income year for purchases made during that year. The credit applies to purchases made during the year, even though a portion of these purchases are in inventory at the end of the year.

VII. PRINTED ADVERTISING MATERIAL PURCHASED BY MANUFACTURERS FOR OUT-OF-STATE USE

A. Statutory Language

Under sec. 77.54(25), Wis. Stats., a sales and use tax exemption is provided for:

"The gross receipts from the sale of and the storage of printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which printed material is purchased and stored for the purpose of subsequently transporting it outside the state by the purchaser for the use thereafter solely outside the state." See sec. Tax 11.19, Wis. Adm. Code, for more information on this subject.

B. Scope of Exemption

Printed advertising materials, such as catalogs and their mailing envelopes, may be purchased from Wisconsin or out-of-state sellers without tax, provided such materials are purchased and stored for the purpose of subsequently transporting the materials outside this state for use solely outside the state.

The exemption does not apply to printed advertising materials shipped to Wisconsin addresses. It also does not apply to parts stock order books, order forms, stocking and purchasing guides, stockholders' annual reports, or proxy statements, display racks, or 3-dimensional plastic items designed to be used by sellers. Envelopes which do not contain ex-

empty advertising, matchbooks, calendars, calendar pads, desk pads, folders, golf balls, binders and playing cards also do not qualify for the exemption.

VIII. WASTE TREATMENT

A. Statutory Sales and Use Tax Exemption Language

Section 77.54(26), Wis. Stats., provides a sales and use tax exemption for waste treatment facilities which reads as follows:

“The gross receipts from the sales of and the storage, use, or other consumption of tangible personal property which becomes a component part of an industrial waste treatment facility that is exempt under s. 70.11(21)(a) or that would be exempt under s. 70.11(21)(a) if the property were taxable under ch. 70, or tangible personal property which becomes a component part of a waste treatment facility of this state or any agency thereof, or any political subdivision of the state or agency thereof as provided in s. 40.02(28). The exemption includes replacement parts therefor, and also applies to chemicals and supplies used or consumed in operating a waste treatment facility and to purchases of tangible personal property made by construction contractors who transfer such property to their customers in fulfillment of a real property construction activity.”

B. Property Tax Exemption Required

The sales and use tax exemption is contingent on the industrial waste treatment facility being exempt from property tax under sec. 70.11(21)(a), Wis. Stats.

C. The Approval

Under the sales tax law, the approval of an industrial waste treatment facility means the approval by the Department of Revenue. The approval is issued to the owner of the facility. Contractors should contact the owner to determine if an approval has been issued. The property tax exemption approvals for industrial waste treatment facilities are effective January 1 of each year. Any approvals issued prior to January 1 which apply to contemplated construc-

tion must of necessity be “tentative approvals” based on the information presented to the department by the applicant.

If on-site inspection of the new addition or other information provided the department results in a finding of facts not contained in or consistent with the original request, the tentative approval may be limited or rescinded. In certain cases only a percentage of the new facility may be approved as being an expenditure for waste treatment purposes. If the facility also performs other functions, it is exempt only to the extent of that portion that is approved as attributable to waste treatment.

Requests for department approval for public utilities, including railroads, airlines and pipelines, should be sent to the Department of Revenue, Bureau of Utility and Special Taxes, PO Box 8933, Madison, WI 53708-8933; telephone (608) 266-3964. For other commercial and industrial facilities, requests should be sent to the Department of Revenue, Bureau of Manufacturing and Telco Assessment, PO Box 8933, Madison, WI 53708-8933; telephone (608) 266-8606. The requests should contain a brief description of the waste treatment facility and a Department of Natural Resources order number if available.

To obtain the property tax exemption, utilities must complete Form UA-008, and other commercial and industrial concerns must complete Form PA-008, available from the addresses and telephone numbers above. However, *these forms should not be used as the original request for sales tax exemption*. Forms UA-008 and PA-008 should reflect actual costs incurred in construction of the facility. Sections Tax 6.40, 11.11, and 12.40, Wis. Adm. Code, provide additional information on this subject.

D. Municipal Waste Treatment Facilities

It is not necessary for a municipality, or contractors engaged in constructing a waste treatment facility for a municipality, to obtain Department of Revenue approval of a municipality’s central waste treatment facility to qualify for the exemption provided in sec. 77.54(26), Wis. Stats. Construction materials which become a component part of a municipal central treatment facility may be purchased without tax by contractors pursuant to the standards

set forth in sec. Tax 11.11, Wis. Adm. Code, entitled “Industrial or governmental waste treatment facilities.”

E. Contractors and Subcontractors

The sales tax exemption extends to and includes the purchases of tangible personal property by a contractor-installer who incorporates these purchases into a waste treatment facility. The contractor-installer should certify the intended exempt use of the item to the seller in order to relieve the seller of the duty of collecting and reporting the tax on the sale.

A contractor’s purchases of items used or consumed in the performance of the contract, which do not become a part of the waste treatment facility are subject to the tax. This includes industrial gases, form lumber, tunnel shields, and supplies used by the contractor during construction. Payments by a contractor for equipment purchased (or leased) to perform a construction job are also taxable.

F. Claiming the Sales Tax Exemption

Sellers of construction or repair materials for waste treatment facilities are not subject to the sales tax on such sales if they accept from the purchaser in good faith a Wisconsin Sales and Use Tax Exemption Certificate (Form S-211).

G. Repair Services and Chemicals and Supplies

The repair, service, alteration, cleaning, painting, and maintenance of exempt waste treatment facilities and the repair parts and replacements therefor are exempt. The exemption also applies to chemicals and supplies used or consumed to carry out the treatment process. Supplies include fuel and electricity.

IX. WASTE REDUCTION OR RECYCLING

A. Statutory Language

Section 77.54(5)(c), Wis. Stats., exempts the gross receipts from the sale of and the storage, use or other consumption of:

“Motor vehicles which are not required to be licensed for highway use and which are

exclusively and directly used in conjunction with waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. For purposes of this paragraph, ‘solid waste’ means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agriculture operations or from domestic use or from public service activities.”

Section 77.54(26m), Wis. Stats., provides a sales and use tax exemption for:

“The gross receipts from the sale of and the storage, use or other consumption of waste reduction or recycling machinery and equipment, including parts therefor, exclusively and directly used for waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. The exemption applies even though an economically useful end product results from the use of the machinery and equipment. For purposes of this subsection, ‘solid waste’ means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operation or from domestic use or from public service activities.”

B. Directly and Exclusively Used Requirement

To qualify for the exemption, machinery, equipment, and motor vehicles not required to be licensed for highway use must be used directly and exclusively in the waste reduction and recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

The gross receipts from the sale, lease, or rental of waste reduction or recycling machinery and equipment, including parts therefore, exclusively and directly used for waste reduction or recycling activities, and motor vehicles not required to be licensed for highway use used in such activities, are exempt from the sales and use tax.

Any machinery, equipment, or motor vehicle not required to be licensed for highway use which is not used to reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste is not exempt, even though such machinery, equipment or motor vehicle may be indirectly related to waste reduction or recycling. For example a baler, and a conveyor which transports scrap paper trimmings from a paper manufacturing process to the baler, which bales the scrap paper before it is disposed of in a landfill, are not exempt waste reduction or recycling machinery or equipment. However, such machinery or equipment may be exempt as manufacturing machinery or equipment under sec. 77.54(6)(a), Wis. Stats., if the scrap paper is resold or is otherwise given value as a by-product rather than being disposed of in a landfill. See Part III.

Containers used to collect and transport recyclable materials to a recycling plant are not used directly in the waste reduction or recycling process. Similar taxable items include a can crusher used in a household, a paper shredder in an office used to destroy confidential records, a freon recovery unit used to collect and store freon gas recaptured from air conditioning units, and a milling machine used to grind a roadway smooth when the ground up materials are not reused.

Items that qualify for the exemption include equipment that produces fuel cubes by shredding paper and adding chemical agents, a milling machine that is used to grind old pavement when the ground up materials are reused in constructing new roadways, equipment used to remove impurities from lubrication oil used in manufacturing machines so that the oil can continue to be used by the manufacturer, and a system used exclusively to burn used oil to produce heat for hot water.

X. EXEMPTION CERTIFICATES – SELLERS’ AND PURCHASERS’ RESPONSIBILITIES

A. Basic Consideration

The sales and use tax law provides that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale is exempt is upon the person who makes the sale, unless the seller takes a certificate or an approved form in “good faith” from the purchaser which indicates that the property or service being purchased is for resale or otherwise exempt.

B. Certificate Must Be Taken in “Good Faith”

A seller (including a lessor) who accepts in “good faith” an exemption certificate which, upon its face, discloses a proper basis for exemption is relieved of any liability for collection or payment of tax upon transactions covered by the certificate. The seller should be familiar with the instructions contained in the certificate. To establish “good faith,” the following conditions must be met:

1. The certificate must contain no statement or entry which the seller knows, or has reason to believe, is false or misleading.
2. The certificate must be properly executed and contain all the necessary information.

The question of “good faith” is one of fact and depends upon a consideration of all the circumstances surrounding the transaction in question. If the seller accepts a certificate having knowledge which gives rise to a reasonable inference that the purchaser does not intend to use the item as claimed, the good faith of the seller may be questioned. The seller is presumed to be familiar with the law and its interpretations relating to the business or businesses involved. A certificate cannot be taken in good faith for an exemption which is not provided for by law.

C. Use of the Wisconsin Sales and Use Tax Exemption Certificate

A seller who accepts a properly completed Wisconsin Sales and Use Tax Exemption Certificate (Form S-211) in good faith marked for “continuous” use

may make sales to the manufacturer without tax as long as the nature of the articles sold qualify for one of the exempt uses claimed by the manufacturer on the certificate. Each purchase order of the manufacturer should refer to the Form S-211 on file. If a particular order contains exempt and nonexempt items, the purchaser must designate which items fall into each category.

Continuous certificates are only cancelled by a purchase order when the purchase order is accompanied by a separate letter explaining the inapplicability of the certificate.

D. The Certificate's Form

While it is not necessary to use the certificate designed by the department, the certificate used must contain all the essential information relating to the transaction and must be signed by and bear the name and address of the purchaser and must indicate the general character of the property or service sold by the purchaser and the basis for the claimed exemption.

Anyone using the department's certificate may reproduce it by photocopy or other means. If approved by the department, rubber stamps may be used to stamp invoices or purchase orders. See sec. Tax 11.14, Wis. Adm. Code, entitled "Exemption certificates," for more information on this subject.

E. Direct Pay Permits

Eligible persons may purchase certain tangible personal property or taxable services without Wisconsin sales or use tax using a direct pay permit. If the tangible personal property or taxable services are stored, used, or consumed in Wisconsin in a taxable manner, the purchaser must report Wisconsin use tax on the purchase price of the property or service.

Information on who is eligible and how to apply for a direct pay permit is found in sec. Tax 11.13, Wis. Adm. Code.

When purchasing items using a direct pay permit, a purchaser must furnish the seller with (a) a copy of its direct pay permit or (b) a statement that the pur-

chaser holds a direct pay permit, the permit number, and the date the permit was issued.

A seller who accepts a direct pay permit may make sales to the manufacturer without tax, except for those items specifically excluded from direct pay by sec. Tax 11.13, Wis. Adm. Code. If a manufacturer uses the items purchased in a taxable manner, the manufacturer is subject to Wisconsin use tax on the purchase price of the item.

XI. THE WISCONSIN USE TAX

A. Imposition

Section 77.53, Wis. Stats., imposes the Wisconsin use tax. The use tax is an excise tax on the storage, use, or other consumption of property or taxable services in this state purchased without tax.

The use tax complements the sales tax and is intended to tax the purchase of goods in-state or out-of-state which were purchased without payment of Wisconsin's sales tax. It prevents placing a Wisconsin seller at a competitive disadvantage by imposing a use tax at the same rate as the sales tax upon the use of tangible personal property or taxable services in this state purchased outside the state.

B. Definition of "Storage" and "Use"

Section 77.51(18), Wis. Stats provides that:

"'Storage' includes any keeping or retention in this state of tangible personal property purchased from a retailer for any purpose except sale in the regular course of business."

Section 77.51(22)(a) and (b), Wis. Stats., provides that:

"(a) 'Use' includes the exercise of any right or power over tangible personal property or taxable services incident to the ownership, possession or enjoyment of the property or services or the results produced by the services, including installation or affixation to real property and including the possession of, or the exercise of any right or power over tangible personal property by a lessee under a

lease, except that ‘use’ does not include activities under sub (18).

- (b) In this subsection ‘enjoyment’ includes a purchaser’s right to direct the disposition of property, whether or not the purchaser has possession of the property. ‘Enjoyment’ also includes, but is not limited to, having shipped into this state by an out-of-state supplier printed material which is designed to promote the sale of property or services, or which is otherwise related to the business activities, of the purchaser of the printed material or printing service.”

C. Common Application

The most common application of the use tax involves property or services purchased from out-of-state sellers for use in Wisconsin. It is presumed that tangible personal property or taxable services sold for delivery in this state are sold for storage, use, or consumption in this state until the contrary is established. Wisconsin purchasers who receive deliveries of property from out-of-state sellers or who purchase property out-of-state for “storage” or “use” in Wisconsin must, unless they qualify for an exemption, report and pay to this state the tax based upon the sales price of such property even though the property may subsequently be shipped outside Wisconsin.

Out-of-state sellers engaged in business in Wisconsin are required to register and collect the Wisconsin use tax on shipments into this state. Sellers not engaged in business in Wisconsin may, for the convenience of Wisconsin purchasers, register with the department to collect the Wisconsin use tax. If they are collecting the Wisconsin tax, the tax must be shown as a separate item on the invoice. Payments to out-of-state sellers registered with the department relieve the purchaser from liability for the tax. However, when the Wisconsin tax is not billed separately on the invoice issued by the out-of-state seller, the purchaser should report the tax directly to the department and should not add or pay the tax when paying the seller. See sec. Tax 11.97, Wis. Adm. Code, entitled “‘Engaged in business’ in Wisconsin,” for more information on this subject.

D. Other Applications

If taxable property is purchased for resale and an exemption certificate claiming resale is issued by the purchaser, the tax applies if there is any use of the property other than demonstration or display while holding it for sale in the regular course of business. Thus, a seller who appropriates any part of an inventory for personal use must report and pay a tax on the appropriated property even though it may later be resold.

Manufacturers who are also contractors, such as modular home builders or operators of redi-mix plants, who are involved in construction activities, must report and pay a tax on that portion of their purchases of ingredients or component parts which are used or consumed in their real property construction activities.

If the property is purchased without tax using a direct pay permit, use tax applies if the property is used in a taxable manner. The use tax is reported at the time the property is first stored, used, or consumed in Wisconsin in a taxable manner.

E. Use Tax Registration

1. Who Needs a Use Tax Certificate

- If a manufacturer is not required to hold a seller’s permit (see Part XI.), but regularly has a use tax obligation because purchases are made without tax, the manufacturer should apply for a Consumer Use Tax Certificate.
- Manufacturers from other states whose only activity in Wisconsin is real property construction also must obtain a Consumer Use Tax Certificate.
- Manufacturers from other states engaged in both real property construction and the sale, installation, repair, or other service of personal property in Wisconsin must obtain a Use Tax Certificate.

2. Application Forms

To obtain either of the use tax certificates described in E.1., Form A-101, Application for

Permit/Certificate, must be filed by the manufacturer with the Department of Revenue. Form A-101 may be obtained from any Department of Revenue office.

XII. SALES BY MANUFACTURERS

A. Sales at Retail Require a Seller's Permit

The requirement that all sales of tangible personal property are subject to the tax until the contrary is established applies to manufacturers as well as other sellers. Manufacturers are required to obtain a seller's permit and report the sales tax on the portion of their sales which are retail sales. Such retail sales include, but are not limited to, sales of meals or other items to employees or visitors, sales of used equipment or scrap materials, and sales to other manufacturers or distributors who have not supplied the seller with a valid exemption certificate.

Every seller desiring to engage in the business of selling taxable tangible personal property or services at retail in Wisconsin must file Form A-101, Application for Permit/Certificate, with the department. The seller's permit shows that a seller is properly registered with the Department of Revenue, as required by law.

Note: Persons having a seller's permit report both their sales and use tax liabilities on their sales tax return, Form ST-12.

Form A-101 may be obtained from any Department of Revenue office. This completed form should be mailed to the department at least three weeks before business operations begin. It is a misdemeanor to sell taxable property or services without a seller's permit.

B. Business Tax Registration

Persons applying for a seller's permit or use tax certificate may be required to pay a Business Tax Registration (BTR) fee of \$20. The \$20 BTR fee is not required for a consumer's use tax certificate.

The initial BTR fee covers a period of two years. At the end of that period, a \$10 BTR renewal fee applies. The Department of Revenue will send a renewal notice.

C. Special Retail Situations

Two types of sales require special mention since the law considers them sales at retail even though they might commonly be considered sales at wholesale.

1. Real Property Construction

Sales of building materials to contractors who use such materials in real property construction activities are defined as taxable sales at retail. The seller must charge the tax on such sales unless the contractor involved is also a retailer and gives the seller a valid exemption certificate claiming resale.

However, even in such circumstances, the seller may not in good faith accept the exemption certificate if the nature of the article sold is such that it could not be used by the contractor other than in real property construction activities. An example of such a taxable article is one custom-made for a particular construction activity the contractor is engaged in.

2. Drop Shipments

A sale at retail occurs when goods are delivered by a manufacturer or distributor registered (or required to be registered) with the department to a Wisconsin purchaser pursuant to an order the purchaser has placed with an unregistered, out-of-state seller. Treating such drop shipments as retail sales is necessary to prevent tax avoidance by Wisconsin purchasers who order merchandise from out-of-state sellers. Thus, a manufacturer or a merchant who sells property to an unregistered out-of-state seller but delivers it to a consumer in Wisconsin, is responsible for reporting and remitting the tax to the department, *based upon the retail selling price of the property*.

Under such circumstances an exemption certificate claiming resale *cannot* be accepted from the unregistered out-of-state seller and will not relieve the manufacturer or merchant, who delivers the property, from responsibility for the tax. The manufacturer or merchant may accept an exemption certificate from the Wisconsin purchaser, if applicable.

D. Sales in Interstate Commerce

A sale by a Wisconsin manufacturer in which possession is transferred by the manufacturer or its agent outside Wisconsin is not subject to Wisconsin sales tax. Manufacturers who make such sales should keep records and bills of lading showing that delivery is made outside Wisconsin. *Caution:* If a seller knows that the property or service is intended for storage, use or consumption in Wisconsin, the seller is required to collect the sales or use tax on such property or service.

E. Conversion From Exempt to Taxable Use

A purchaser is liable for the tax on tangible personal property purchased without tax under claim of exemption or direct pay permit and subsequently converted to a taxable use. When this conversion takes place, the tax is due, measured by the sales price of the property to the purchaser. However, if the property is purchased without tax using an exemption certificate and the taxable use first occurs more than six months after the sale to the purchaser, the purchaser may use as the measure of the tax either such sales price or the fair market value of the property at the time the taxable use first occurs (sec. 77.57, Wis. Stats.).

F. Manufactured Buildings

Section 77.51(4)(b)7 and (15)(b)6, Wis. Stats., provide that the gross receipts or sales price from the sale of a “manufactured building,” as defined in sec. 101.71(6), Wis. Stats. (see definition below), that is tangible personal property when sold, may be *reduced* by one of the following:

Option A: 35% of the gross receipts or sales price.

Option B: An amount equal to the gross receipts or sales price minus the cost of the materials that become an ingredient or component part of the manufactured building.

No credit is allowed for trade-ins under Option A or Option B in computing gross receipts or sales prices subject to tax.

Once a seller chooses Option A or Option B for the first manufactured building sold under this provi-

sion, the seller must continue to use that option for all sales of manufactured buildings, that are tangible personal property when sold, until such time as the department approves in writing the use of the other option.

“Manufactured building” under sec. 101.71(6), Wis. Stats., means any structure or component thereof which is intended for use as a dwelling and:

1. is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or
2. is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

“Manufactured building” does not mean a manufactured home or mobile home under sec. 101.91 or any building of open construction which is not subject to 2. above.

Example: Building Manufacturer sells a manufactured building, as defined in sec. 101.71(6), Wis. Stats., in Wisconsin to Dealer for \$65,000. Dealer will affix the manufactured building to real property in Wisconsin for Purchaser under a contract between Dealer and Purchaser. This is the first manufactured building, as defined in sec. 101.71(6), Wis. Stats., sold by Building Manufacturer pursuant to a contract entered into on or after December 1, 1997. The cost of materials purchased by Building Manufacturer that become an ingredient or component part of the manufactured building is \$40,000.

The amount subject to sales tax on the sale of the manufactured building to Dealer is one of the following:

Option A: \$42,250 [\$65,000 selling price reduced by \$22,750 (35% of the \$65,000 selling price)].

Option B: \$40,000 [\$65,000 selling price reduced by \$25,000 (\$65,000 selling price minus the \$40,000 cost of materials)].

If Building Manufacturer chooses Option A for computing gross receipts from the sale of this manufactured building, it must use Option A for computing gross receipts from all future sales of manufactured buildings, until the department approves in writing the use of Option B.

XIII. QUESTIONS OR ADDITIONAL INFORMATION

A. Department of Revenue Assistance

If you have any questions or need additional information about the sales and use tax law, contact any Department of Revenue office for free assistance. The address and telephone number of each office is listed in the telephone directory of that city.

Department of Revenue offices are located in: Appleton, Baraboo, Beaver Dam, Eau Claire, Elkhorn, Fond du Lac, Grafton, Green Bay, Hayward, Hudson, Janesville, Kenosha, La Crosse, Lancaster, Madison, Manitowoc, Marinette, Marshfield, Milwaukee, Monroe, Oshkosh, Racine, Rhinelander, Rice Lake, Shawano, Sheboygan, Superior, Tomah, Watertown, Waukesha, Waupaca, Wausau, West Bend, and Wisconsin Rapids.

Contact the Department of Revenue by any of the following:

Write . . . Wisconsin Department of Revenue
PO Box 8902
Madison WI 53708-8902

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030

E-Mail . . . sales10@dor.state.wi.us

Visit our web site . . . www.dor.state.wi.us

B. Other Informational Aids

If you are required to file sales and use tax returns, you should be aware of changes in the tax laws, new interpretations, and court cases which may affect how you file returns and compute the tax. Informational type aids available to you include:

Sales and Use Tax Report

The *Sales and Use Tax Report* is published one or more times each year by the Department of Revenue, and is mailed without charge to all persons holding a seller's permit or use tax certificate. It includes general information about sales and use taxes, including new tax laws enacted by the Legislature.

Publications

You may obtain the following sales and use tax publications from any Department of Revenue office. The publications are also available on the web site www.dor.state.wi.us.

No.	Title
200	Electrical Contractors
201	Wisconsin Sales and Use Tax Information
202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs
205	Do You Owe Wisconsin Use Tax? (Individuals)
206	Sales Tax Exemption for Nonprofit Organizations
207	Sales and Use Tax Information for Contractors
210	Sales and Use Tax Treatment of Landscaping
211	Sales and Use Tax Information for Cemetery Monument Dealers
212	Businesses: Do You Owe Wisconsin Use Tax On Imported Goods?
213	Travelers: Don't Forget About Use Tax
214	Do You Owe Wisconsin Use Tax? (Businesses)
216	Filing Claims for Refund of Sales or Use Tax
217	Auctioneers
219	Hotels, Motels, and Other Lodging Providers
220	Grocers
221	Farm Suppliers and Farmers
222	Motor Vehicle Fuel Users: Do You Owe Use Tax?
223	Bakeries
224	Veterinarians - How Do Wisconsin Sales and Use Taxes Affect Your Business
225	Barber and Beauty Shops -How Do Wisconsin Sales and Use taxes Affect Your Operations?
226	Golf Courses - How Do Wisconsin Sales and Use Taxes Affect Your Operation
403	Premier Resort Area Tax
410	Local Exposition Taxes

Wisconsin Tax Bulletin

The *Wisconsin Tax Bulletin* is a quarterly publication prepared by the Department of Revenue which is distributed to those persons who have purchased a subscription to it. The Bulletin includes information on most taxes administered by the Department of Revenue, including sales and use, income, franchise, estate, and excise taxes. It includes up-to-date information on new tax laws, interpretations of existing laws, information on filing various types of returns, and current tax topics and gives a brief excerpt of major Wisconsin tax cases decided by the Wisconsin Tax Appeals Commission and the courts.

A subscription, which costs \$7 per year, may be obtained by writing to: Department of Administration, Document Sales, PO Box 7840, 202 South Thorton Avenue, Madison, Wisconsin 53707-7840. The Bulletins are also available on the Department of Revenue's web site at www.dor.state.wi.us.

Rules – Wisconsin Administrative Code

The *Wisconsin Administrative Code* includes administrative rules that interpret the Wisconsin Statutes. Rules have the force and effect of law. The Department of Revenue has adopted a number of rules concerning sales and use tax interpretations.

A book of the administrative rules of the Department of Revenue may be obtained from: Department of Administration, Document Sales, PO Box 7840, 202 South Thornton Avenue, Madison,

WI 53707-7840. A subscription update service which provides all new Department of Revenue rules and changes to existing rules is also available from Document Sales. Copies of individual sales and use tax rules may be obtained from any Department of Revenue office and are also available on the Revisor of Statutes web page at <http://www.legis.state.wi.us/rsb/code/tax/tax011.pdf>.

Topical and Court Case Index

The *Topical and Court Case Index* is a two-part index. The first part (a Topical Index) will help you find the particular Wisconsin statute, administrative rule, *Wisconsin Tax Bulletin* tax release, publication, private letter ruling, or Attorney General opinion that deals with your particular tax question. The second part of the index (a Court Case Index) lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions relating to your question. The index is published each December with an addendum to the index provided each May.

The *Topical and Court Case Index*, which costs \$18 (plus sales tax), may be obtained from the Wisconsin Department of Administration, Document Sales, PO Box 7840, 202 Thornton Ave., Madison, WI 53707-7840.

APPENDIX A

SCOPE OF MANUFACTURING IN SPECIFIC SITUATIONS

1. CHEESE PLANT

The manufacturing process in a cheese plant where raw milk is converted into cheese includes the aging of and the cutting and wrapping of the cheese it manufactures. Machines and processing equipment used exclusively and directly in either of these processes are exempt under sec. 77.54(6) (a), Wis. Stats.

2. DAIRY PLANT

The manufacturing process in a dairy plant starts after the stop valve on the passive storage or holding tank and ends with the conveyance of the finished product to the point of first storage on the plant premises. Machines and processing equipment used exclusively and directly in the intervening processes are exempt.

3. MEAT PACKING PLANT

The manufacturing process in a meat packing plant includes the slaughtering and dressing of the animals. Machines and processing equipment used exclusively and directly in such operations are exempt.

4. BOTTLING

The washing and sterilizing of bottles or other containers as part of a continuous step-by-step manufacturing process, which includes refilling the container, is within the *scope* of manufacturing. Machines and processing equipment used exclusively in such bottling operations are exempt.

5. HARD FREEZING

The manufacturer's hard freezing of a product as a direct and necessary step in the production of the finished product is within the *scope* of manufacturing, and machines and processing equipment used exclusively and directly in such freezing are exempt. However, the refrigeration or cold storage of a product after it has been manufactured is not within the *scope* of manufacturing and machines or processing equipment used therein are not exempt.

6. REDI-MIX OR BITUMINOUS PLANT

Manufacturing includes the operation of a redi-mix or bituminous plant used as a source of supply for units mounted on trucks even though the plant may be dismantled at one location and moved to a new fixed location after each construction job. It also includes the redi-mix trucks or trailers.

7. COMPUTERS

Computers used by a manufacturer exclusively and directly to control the flow of materials on the production line are used directly within the *scope* of manufacturing and are exempt.

8. STEAM MANUFACTURING

A conveyor used exclusively to transfer crushed coal from a coal yard to a boiler that manufactures steam is used directly within the *scope* of manufacturing. The coal yard crane, crushers, and hoppers used prior to movement by conveyor to the boiler, are used prior to the manufacturing process.

APPENDIX A (cont'd.)

9. FURNACES, BOILERS AND STANDBY GENERATORS

Furnaces, boilers, pumps and standby generators have a multiplicity of uses. When they are used by a manufacturer exclusively in the step-by-step production process they are exempt as machines used in manufacturing. However, when they are used only to heat, light, or otherwise service the building or structure, they are not exclusively and directly used in manufacturing and are not exempt. In the latter situation, they are deemed realty improvements and the installer is the consumer and must pay the tax to the seller on purchases of such units.

10. CHEMICALLY TREATING WOOD

The manufacturing process of chemically treating wood to produce “flame proof fire retardant” wood includes placing lumber in a tank having a partial vacuum and releasing chemicals in the tank to penetrate the wood. In some cases it is also necessary to kiln dry the treated lumber. The person treats their own lumber and also provides this service to other sellers of lumber. This process is within the *scope* of manufacturing. The tank and kiln used exclusively and directly in the manufacturing process qualify as exempt machinery or processing equipment, and the wood and chemicals qualify as exempt ingredients if the wood is destined for sale as tangible personal property.

11. RAW MATERIALS TESTING

A manufacturer’s receiving department sends newly received parts to its quality control department to verify the parts are within specifications. Parts that meet the manufacturer’s specifications are sent to the inventory department for eventual withdrawal by the production department for use in the manufacturing process. Equipment used to test the raw materials prior to the start of the manufacturing process is used outside the *scope* of manufacturing, and does not qualify for the exemption for machines and processing equipment used exclusively and directly in the manufacturing process.

12. PERFORMING SERVICES FOR MANUFACTURERS

A company that is not a manufacturer, that is performing a testing service exclusively on samples of products taken from the step-by-step manufacturing process of a manufacturer, may claim exemption on its purchases of tangible personal property that is consumed, destroyed, or loses its identity in performing the testing service. (**Note:** Persons performing services, who are not manufacturers, may **not** claim exemption from the Wisconsin sales or use tax on purchases of **machinery or equipment**, which must be exclusively and directly **used by a manufacturer** to be exempt.)

13. ASSEMBLING AND PACKAGING PREVIOUSLY MANUFACTURED PRODUCTS

A company engaged in the retail mail-order business sells customized toys that include a base unit with a series of related accessories, all designed by the seller but manufactured by others. A purchaser can order a base unit alone, any accessories without the base unit, or any combination of base unit with accessories. The mail-order company is not engaged in manufacturing when it removes the manufacturer’s protective material, inspects the toys, alters some slightly with hand tools, and assembles, boxes, labels, and invoices individual orders before mailing them. The assembly operation brings together items that have already been manufactured, and neither the packaging or assembly operations are within the *scope* of manufacturing.

APPENDIX B**EXAMPLES OF THE APPLICATION OF THE *DIRECTLY USED* REQUIREMENT FOR MANUFACTURING MACHINERY AND PROCESSING EQUIPMENT**

(Note: To be exempt, equipment must also be used *exclusively* in manufacturing as referred to in Part III E.)

1. MEAT PROCESSING

Machinery and equipment, such as slicing machines, cutting tables, and packaging machines, used exclusively and *directly* in manufacturing meat products are exempt. No exemption would apply to meat scales used where meat is received, inspected, and accepted or rejected; equipment that blows a blanket of air on an air curtain put on an outside door to prevent air from entering or leaving the plant; or equipment used to clean manufacturing equipment and floors, walls, and other surfaces in the plant.

2. BAKERY

The production of baked goods generally begins with the removal of ingredients from storage for mixing and ends with the packaging of the baked products in bags, boxes, etc., or placing the baked goods in display cases. Pots, pans and other equipment used *directly* and exclusively in manufacturing the baked goods are exempt. Sinks and pot and pan washers used to clean and sanitize such pots, pans, and other items are not used *directly* in the manufacturing process.

3. REPAIR OF MACHINERY AND EQUIPMENT PURCHASED INITIALLY FOR TAXABLE USE

Equipment initially purchased for use in a manufacturer's research and development department is subject to the sales and use tax. If the same equipment is later converted for use *directly* and exclusively in the manufacturing process, repairs to the equipment while it is being used *directly* and exclusively in manufacturing are exempt. There is no requirement for equipment to be purchased exempt initially in order for the repair to be exempt.

4. CRANES USED TO REPAIR MANUFACTURING MACHINERY

A manufacturer uses a crane to unload manufacturing machines from transportation equipment, to set manufacturing equipment in place in the plant, and to lift manufacturing machinery out of the plant for repair purposes. The crane is not used *directly* in the manufacturing process.

5. MACHINERY AND PROCESSING EQUIPMENT USED INDIRECTLY

The exemption does not apply to machinery and equipment indirectly related to, but not used *directly* in the step-by-step manufacturing process. Examples of indirect use are tool storage facilities, water softening equipment, refrigerated storage facilities, and catwalks that provide access to various parts of a building.

APPENDIX C

EXAMPLES OF THE APPLICATION OF THE *EXCLUSIVELY USED* REQUIREMENT FOR MANUFACTURING MACHINERY AND PROCESSING EQUIPMENT

(Note: To be exempt, equipment must also be used *directly* in manufacturing as referred to in Part III,D.)

1. QUALITY CONTROL TESTING

Equipment used *exclusively* in testing products throughout the step-by-step manufacturing process is exempt. It is not necessary for the testing to be conducted at the same location where the manufacturing machinery is located. For example, during the step-by-step manufacturing process, a manufacturer ships all of its product to its quality control department for testing. The equipment used *exclusively* in testing during the manufacturing process is exempt. If the equipment is also used more than infrequently to test incoming raw materials which are stored until needed in manufacturing, the equipment is not used *exclusively* in a manufacturing process.

2. FORKLIFT

A forklift truck used on a production line to move products from machine to machine and used regularly or frequently in a warehouse to move and stock products is not used *exclusively* in a manufacturing process. However, if the forklift were only used infrequently or sporadically in the warehouse to move and stock products, it **would** be used *exclusively* in manufacturing.

3. COLOR COPIER USED IN ART DEPARTMENT

A company in the business of screen-printing and embroidering sportswear purchases a color copier to be used in its art department. The color copier will be used to scan pictures and enter them into a computer for additional design work to be done and as a printer when designs and sketches are sent back to it from the computer. The color copier is used in the development of designs and is not used *exclusively* in a manufacturing process.

4. TURBINES USED TO PRODUCE ELECTRICITY

A manufacturer produces steam in a steam plant to power turbines that produce electricity used to operate manufacturing machinery. The turbines in the power plant use the steam to run generators that produce the electricity. The turbines are used *exclusively* in the process of manufacturing electricity.

APPENDIX D

**EXAMPLES OF TANGIBLE PERSONAL PROPERTY THAT BECOMES
AN INGREDIENT OR COMPONENT PART OR IS CONSUMED,
DESTROYED, OR LOSES ITS IDENTITY**

1. CONSUMABLES USED BY TESTING SERVICE COMPANY

A company performing a testing service for a manufacturer *consumes or destroys* items of tangible personal property in the process of quality control testing of product samples drawn from the manufacturer's production line. Although the company performing the testing service is not itself a manufacturer, the items it *consumes or destroys* during the testing service are exempt.

2. WEARING APPAREL

Gloves, aprons, coats, and hairnets *consumed or destroyed* by employees during the manufacture of meat products in a meat packing plant, to prevent contamination of the meat products, are exempt. However, cotton coats and hard hats worn by plant visitors for their own protection, rather than the protection of the meat products, are taxable.

3. BAKERIES

A bakery manufactures baked goods by mixing *ingredients* such as flour, eggs, and other condiments together to produce cakes. The bakery decorates some cakes with edible decorations and other cakes with reusable decorations which the bakery does not charge its customers for but must be returned to the bakery after the cake is eaten. The flour, eggs, and other condiments mixed together to make the cakes and the edible cake decorations are exempt as *ingredients*. The returnable cake decorations are not *ingredients* and the bakery must pay the tax on its purchase of those items.

4. CARDBOARD USED UNDER MANUFACTURING MACHINES

A company engaged in manufacturing and selling fiberglass boats purchases cardboard and places it on the floor of its plant to collect the fiberglass overspray. The overspray accumulates on the cardboard at the rate of one to two inches per week. The cardboard is then replaced with new cardboard. The cardboard qualifies for the exemption for items *consumed or destroyed* in manufacturing.

5. SHOPPERS GUIDES, NEWSPAPERS AND PERIODICALS

A printer of shoppers guides and newspapers powers its printing presses with electricity, and powers its forklift truck used exclusively in the manufacturing process with propane fuel. The fuel and electricity *consumed* during the manufacturing of the shoppers guides and newspapers is exempt under sec. 77.54(2m), Wis. Stats.

6. ARTWORK USED FOR PRINTING CATALOGS

A Wisconsin printer that prints catalogs for a department store purchases paper and ink for printing the catalogs. The catalogs will be distributed without charge to the department store's customers in Wisconsin. The department store provides finished artwork it has purchased from an advertising agency to the printer. The department store's purchase of the finished artwork is exempt because it is *consumed, destroyed, or loses its identity* in the printing of the catalogs destined for sale by the printer to the department store. In the event the department store furnishes the paper, in addition to the artwork for printing, the printer is providing a service, rather than selling the catalogs, and the sales of the artwork and paper to the department store are subject to the tax.

APPENDIX D (cont'd.)

7. TIRE RETREADING BUSINESS

A tire retreading company uses worn out tire carcasses to make new useable tires. During the retreading process, excess rubber is buffed off the tire carcass, and rubber and cement are applied with a heat application to vulcanize the new rubber to the old tire carcass and imprint the desired tread design. The tire is then cleaned, trimmed, painted, tested, and sold as a retreaded tire. The old tire carcasses, rubber, cement, and paint are *ingredients or component parts or items consumed, destroyed or that lose their identity* in the retreading process.

8. MANUFACTURER IS A CONTRACTOR

A company purchases items of tangible personal property (e.g., wood, nails, paint, sandpaper, etc.) that will be *consumed, destroyed, or will lose their identity* in the company's manufacturing of modular home components. The manufacturer will use the modular home components in making real property improvements (i.e., will permanently affix the components to the real estate at a job site). The manufacturer's purchases of tangible personal property that will be *consumed, destroyed, or will lose their identity* in the manufacture of the modular home components are subject to the tax because the manufactured components are not destined for sale as tangible personal property.

9. WOOD PRODUCTS

A company *consumes* a combination of coal and wood residue pellets to fuel the boiler it uses to manufacture steam for use in its tool manufacturing operation. Although the coal used to fuel the boiler is taxable, the wood residue pellets are exempt under sec. 77.54(30)(a)4, Wis. Stats.

APPENDIX E

WISCONSIN SALES AND USE TAX EXEMPTION CERTIFICATE

Check One ☐ Single Purchase☐ Continuous

Purchaser's Business Name	Purchaser's Address
<p>The above purchaser, whose signature appears on the reverse side of this form, claims exemption from Wisconsin state, county, stadium, and premier resort sales or use tax on the purchase, lease, or rental of tangible personal property or taxable services, as indicated by the box(es) checked below.</p> <p>I hereby certify that I am engaged in the business of selling, leasing, or renting: _____</p> <p style="text-align: center;">(Description of Property or Services Sold by Purchaser)</p> <p>General description of property or services purchased (itemize property purchased if "single purchase"): _____</p> <p>_____</p>	
Seller's Name	Seller's Address
PROPOSED EXEMPT USE	
Resale _____ (Enter seller's permit or use tax certificate number)	
Manufacturing <ul style="list-style-type: none"> <input type="checkbox"/> Tangible personal property becoming an ingredient or component part, or which is consumed or destroyed or loses its identity, in the manufacture of tangible personal property destined for sale, but not including fuel or electricity, unless the fuel or electricity is consumed or destroyed or loses its identity in the manufacture of shoppers guides, newspapers, or periodicals, whether or not destined for sale. <input type="checkbox"/> Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment. <input type="checkbox"/> The repair, service, alteration, fitting, cleaning, painting, coating, towing, installation, and maintenance of machines and specific processing equipment, that the above purchaser would be authorized to purchase without sales or use tax, at the time the service is performed thereon. Tools used to repair exempt machines are not exempt. <input type="checkbox"/> Portion of the amount of fuel converted to steam for purposes of resale. (Percent of fuel exempt _____%) 	
Farming (To qualify for this exemption, the purchaser must use item(s) exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture, or custom farming services.) <ul style="list-style-type: none"> <input type="checkbox"/> Tractors (except lawn and garden tractors) and farm machines, including accessories, attachments, parts and repair service. <input type="checkbox"/> Feed, seeds for planting, plants, fertilizer, soil conditioners, sprays, pesticides, and fungicides. <input type="checkbox"/> Baling twine and baling wire. <input type="checkbox"/> Breeding and other livestock, poultry, and farm work stock. <input type="checkbox"/> Containers for fruits, vegetables, grain, hay, and silage (including containers used to transfer merchandise to customers), and plastic bags, sleeves, and sheeting used to store or cover hay and silage. <input type="checkbox"/> Animal waste containers or component parts thereof (may only mark certificate as "Single Purchase"). <input type="checkbox"/> Animal bedding, medicine for farm livestock, and milk house supplies. <input type="checkbox"/> All-terrain vehicles (ATV) used exclusively in farming, not licensed for public use. 	

APPENDIX E (cont'd.)

Federal and Wisconsin Governmental Units

Enter CES No., if applicable

- ☐ The United States and its unincorporated agencies and instrumentalities and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
- ☐ State of Wisconsin or any agency thereof; Local Exposition District or Professional Baseball Park District.
- ☐ Wisconsin county, city, village, or town, including public inland lake protection and rehabilitation district, municipal public housing authorities, uptown business improvement districts, and local cultural arts district.
- ☐ Wisconsin public schools, school districts, universities, and technical college districts.
- ☐ County-city hospitals or UW Hospitals and Clinics Authority.
- ☐ Sewerage commission, metropolitan sewerage district, or a joint local water authority.

Other

- ☐ Containers and other packaging, packing, and shipping materials, used to transfer merchandise to customers of the purchaser.
- ☐ Trailers and accessories, attachments, parts, supplies, materials, and service for motor trucks, tractors, and trailers which are used exclusively in common or contract carriage under LC or IC No. _____.
- ☐ Items or services purchased directly by and used by religious, charitable, educational, scientific, or other organization holding a Wisconsin Certificate of Exempt Status. CES No. _____.
- ☐ Tangible personal property to be resold by _____ on my behalf where _____ is registered to collect and remit sales tax to the Department of Revenue on such sales.
- ☐ Tangible personal property or services purchased by a Native American with enrollment # _____, who is enrolled with and resides on the _____ Reservation, where buyer will take possession of such property or services.
- ☐ Tangible personal property becoming a component of an industrial or municipal waste treatment facility, including replacement parts, chemicals, and supplies used or consumed in operating the facility.
- ☐ Portion of the amount of electricity or natural gas used or consumed in an industrial waste treatment facility. (Percent of electricity or natural gas exempt _____%)
- ☐ Electricity, natural gas, fuel oil, propane, coal, steam and wood used for fuel for residential or farm use.

	% of Electricity Exempt	% of Natural Gas Exempt	% of Fuel Exempt
<input type="checkbox"/> Residential	_____ %	_____ %	_____ %
<input type="checkbox"/> Farm	_____ %	_____ %	_____ %

Address Delivered: _____

- ☐ Other purchases exempted by law. (State items and exemption). _____
- _____
- _____

I hereby certify that if the item(s) being purchased are not used in an exempt manner, I will remit use tax on the purchase price at the time of first taxable use. I understand that failure to remit the use tax may result in a future liability that may include tax, interest, and penalty.

Authorized Signature

Title

Date

(DETACH AND PRESENT TO SELLER)

APPENDIX E (cont'd.)

INSTRUCTIONS

This certificate may be used to claim exemption from Wisconsin state, county, stadium, and premier resort sales or use tax and replaces all sales and use tax exemption certificates, except for the following: Certificate of Exemption for Rental Vehicles (Form RV-207), Construction Contract Entered Into Before the Effective Date of County/Stadium Tax (Form S-207CT), and a Wisconsin Direct Pay Permit. (**Note:** Form S-211 may be used by a purchaser claiming the direct pay exemption, if the purchaser checks the "other purchases exempt by law" line and enters all the required direct pay information.)

Under the sales and use tax law, all receipts from sales of tangible personal property or taxable services are subject to the tax until the contrary is established. However, a seller who accepts in "good faith" a valid exemption certificate is relieved of any responsibility for collection or payment of the tax upon transactions covered by the certificate. A valid certificate is one which is completely filled in and discloses a specific exemption claim appropriate to the business or activity being conducted by the purchaser. The seller should be familiar with the various exemption requirements and the instructions for using this certificate.

RESALE: A purchaser using the resale exemption is attesting that the tangible personal property or taxable services being purchased will be resold, leased, or rented. However, in the event any such property is used for any purpose other than retention, demonstration, or display while holding it for sale, lease, or rental in the regular course of business, the purchaser is required to report and pay the tax on the purchase of the property.

The following purchasers may make purchases for resale even though they do not hold a Wisconsin seller's permit or use tax certificate: (a) A wholesaler who only sells to other sellers for resale may insert "Wholesale only" in the space for the seller's permit number; (b) A person who only sells or repairs exempt property, such as to a manufacturer or farmer, may insert "Exempt sales only"; (c) A nonprofit organization may insert "Exempt sales only" if its subsequent sales of the tangible personal property or taxable services are exempt as occasional sales; or (d) A person registered as a seller in another state who makes no taxable retail sales in Wisconsin may insert the name of the state in which registered and that state's seller's permit or use tax certificate number. However, a supplier may not accept the resale exemption from a business not holding a Wisconsin seller's permit or use tax certificate, if the sale involves the supplier's delivery of goods to a consumer in Wisconsin (i.e., drop shipment).

A resale exemption may be granted if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. If the items are used in a taxable manner, then sales or use tax is due on the purchase of the items.

MANUFACTURING: "Manufacturing" is defined as *"the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing."*

FARMING: This certificate may not be used by farmers to claim exemption for the purchase of motor vehicles or trailers for highway use, lawn or garden tractors, snowmobiles, or for items used for the personal convenience of the farmer. When claiming an exemption for an ATV which is also registered for public use, a written description including the percentages of time for personal and farm use, must be submitted with the ATV Registration Application.

Gross receipts from the sale of electricity (effective May 1, 2000), natural gas, and other fuels for use in farming are exempt all 12 months of the year. Farmers claiming this exemption should check the box for electricity and fuel located in the "Other" section.

This certificate cannot be used as an exemption for paying Wisconsin motor vehicle fuel tax.

FEDERAL AND WISCONSIN GOVERNMENTAL UNITS: This exemption may only be accepted from federal and Wisconsin governmental units and replaces the requirement for having a purchase order from the governmental unit or recording on invoices the Certificate of Exempt Status (CES) number of the governmental unit. Governmental units of other countries and states may not use this exemption certificate. The governmental unit should check the box that best describes their unit of government.

OTHER:

Containers: This exemption applies regardless of whether or not the containers are returnable. Containers used by the purchaser only for storage or to transfer merchandise owned by the purchaser from one location to another do not qualify for the exemption.

Common or contract carriers: The exemption available to common or contract carriers for certain vehicles and repairs listed on this certificate applies only to those units used "exclusively" in such common or contract carriage. The fact that a carrier holds a LC or IC number is not in itself a reason for exemption.

Organizations holding a Certificate of Exempt Status (CES) number: Sales of tangible personal property or taxable services sold "directly" to certain nonprofit organizations are exempt only if the organization holds a CES number issued by the Wisconsin Department of Revenue. However, a similar out-of-state organization may use this exemption to purchase without tax even though it has not been issued a Wisconsin Certificate of Exempt Status number. Taxable charges (for lodging, meals, auto rental, etc.) incurred by an employee of an exempt organization when the employee is on a business trip are exempt, provided the retailer issues the billing or invoice in the name of the exempt organization, the Certificate of Exempt Status number is entered on the billing or invoice, and the retailer retains a copy of that document.

Waste treatment facilities: The exemption applies to the sale of tangible personal property to a contractor for incorporation into real property which is part of an industrial or commercial waste treatment facility approved for property tax exemption or a Wisconsin or federal governmental waste treatment facility.

Electricity, natural gas, fuel oil, coal, steam and wood used for fuel:

Gross receipts from the sale of electricity and natural gas for residential use during the months of November through April are exempt from sales and use tax.

Gross receipts from sales of fuel oil, propane, coal, steam, and wood used for fuel sold for residential use are exempt from sales or use tax.

Gross receipts from the sale of fuel and electricity for use in farming are exempt all year. This exemption does not include lubricants (e.g., oils) and antifreeze.

A retailer of electricity, fuel, or natural gas shall have a signed exemption certificate for exempt sales for residential or farm use unless any of the following apply:

1. 100% of the electricity, fuel, or natural gas is for exempt use.
2. The sale is to an account which is properly classified as residential or farm pursuant to schedules which are filed for rate tariff with the Wisconsin Public Service Commission which are in force at the time of sale.
3. The sale is to an account which is properly classified as residential or farm for classification purposes as directed by the Federal Rural Electrification Administration.

"Farm use" means used in farming, including use in a tractor or other farm machines used directly in farming, in a furnace heating a farm building, in providing lighting in farm buildings, and use in operating motors of machines used directly in farming.

"Residential use" means use in a structure or portion of a structure which is a person's permanent principal residence. It does not include use in motor homes, travel trailers, other recreational vehicles, or transient accommodations. "Transient accommodations" means rooms or lodging available to the public for a fee for a continuous period of less than one month in a building such as a hotel, motel, inn, tourist home, tourist house or court, summer camp, resort lodge, or cabin.

Other purchases exempted by law include:

1. Printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which printed material is purchased and stored for the purpose of subsequently transporting it outside the state by the purchaser for use thereafter solely outside the state.
2. Parts, supplies, or repairs for a school bus used exclusively as a contract carrier pursuant to a contract with a school or other organization.
3. Waste reduction and recycling machinery and equipment, including parts and repairs, which are exclusively and directly used for waste reduction and recycling activities.
4. Railway cars, locomotives, and other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants, or fuel therefor.
5. Commercial vessels and barges of 50-ton burden or over engaged in interstate or foreign commerce or commercial fishing, and accessories, attachments, parts, and fuel therefor.

QUESTIONS: If either the purchaser or the seller has any questions regarding the completion or use of this exemption certificate, please contact the department by:

Telephone: (608) 266-2776
 Fax: (608) 267-1030
 E-mail: sales10@dor.state.wi.us

Write: Wisconsin Department of Revenue
 PO Box 8902
 Madison WI 53708-8902

Website: www.dor.state.wi.us